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BEFORE THE
Federal Communications Commission
WASHINGTON, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Communications Assistance for Law)
Enforcement Act)

CC Docket No. 97-213

**ARCH COMMUNICATIONS GROUP, INC.
REQUEST FOR EXTENSION OF TIME TO COMPLY WITH THE
ASSISTANCE CAPABILITY REQUIREMENTS OF SECTION 103 OF THE
COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT ACT**

Arch Communications Group, Inc. ("Arch"),¹ by its attorneys and pursuant to Section 107(c) of the Communications Assistance for Law Enforcement Act ("CALEA"),² hereby requests that the Commission grant Arch an extension of time to comply with CALEA's Section 103 assistance capability requirements.³

¹ Arch, the third largest paging company in the U.S., provides a mixture of traditional and advanced paging services, and serves more than 4 million subscribers. The instant request is being filed on behalf of Arch and its various subsidiaries and affiliates which are paging service providers.

² 47 U.S.C. § 1006(c).

³ 47 U.S.C. § 1002. As noted below, a standard has been adopted for traditional, one-way paging. If this standard remains effective, an extension of time will not be necessary to bring this service (and related equipment) into compliance with CALEA's Section 103 assistance capability requirements.

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I. BACKGROUND

CALEA, enacted in 1994 “to make clear a telecommunications carrier’s duty to cooperate in the interception of communications for law enforcement purposes[,]”⁴ imposes certain assistance capability requirements on telecommunications carriers and mandates that these requirements be satisfied by October 25, 1998.⁵ Pursuant to Section 103 of CALEA, carriers must ensure that their equipment, facilities and services are capable of providing law enforcement with certain call content information, and “call identifying information that is reasonably available to the carrier.”⁶

Industry associations and standards-setting bodies are authorized to adopt standards for satisfying these assistance capability requirements, and “telecommunications carriers shall be found to be in compliance with . . . Section 103, . . . if the carrier, manufacturer, or support service provider is in compliance with publicly available technical requirements or standards adopted by an industry association or standard-setting organization”⁷ In turn, the Attorney General, who delegated her responsibilities to the FBI, was instructed to publish law enforcement’s capacity requirements by October 25, 1995 so industry could consider these requirements while developing and implementing CALEA-compliant standards and equipment.⁸

⁴ H.R. Rep. No. 103-827, at 1 (1994).

⁵ 47 U.S.C. § 1002(a).

⁶ *Id.*

⁷ 47 U.S.C. § 1006.

⁸ *See* 47 U.S.C. § 1003(a)(1).

The FBI has yet to publish law enforcement's capacity requirements for the paging industry. Despite this lack of much-needed input from law enforcement, the industry's trade association, the Personal Communications Industry Association ("PCIA"), convened a CALEA Subcommittee ("CALEA Subcommittee" or "Subcommittee") to review the only CALEA-related standard published to date and determine its applicability to paging technology.⁹ The CALEA Subcommittee, with the full participation of a representative from Arch, reviewed Interim Standard (J-STD-025) and found that it applies to broadband wireline and wireless telephony but not to paging.¹⁰ Consequently, the Subcommittee decided to develop a paging-related "suite" of standards to be published in three parts.

On May 4, 1998, the CALEA Subcommittee published Version 1.0 of the paging industry's CALEA specification for traditional, one-way paging services with fixed geographic coverage, thereby adopting the "clone pager" standard. Compliance with this

⁹ Upon passage of CALEA, the telecommunications industry selected TIA, an ANSI accredited institution, as its Section 107(a)(2) "industry association or standard-setting organization" for two-way voice telephony. By late 1995, one of TIA's subcommittees produced a draft standard and solicited the FBI's input. The FBI, however, rejected the standard as inadequate, and has since objected to two subsequent versions of the standard, including the most recently proposed Interim Standard (J-STD-025), demanding instead compliance with a standard that incorporates an FBI devised "punch list" of items which are now the subject of a Petition for Expedited Rulemaking filed jointly by the FBI and Department of Justice on March 27, 1998. These punch list items relate to the broadband industry, so the matters addressed in that proceeding have no bearing on issues associated with the narrowband industry's obligations under CALEA.

¹⁰ This is consistent with the FBI's own conclusions. See FBI and Department of Justice Joint Petition for Expedited Rulemaking, filed March 27, 1998, at ¶ 3 (indicating that Interim Standard J-STD-025 applies to wireline, cellular and PCS carriers).

standard requires paging carriers to provide law enforcement officials, pursuant to a valid court order, with subscriber information and capcodes¹¹ of specific pagers, and to program capcodes into pagers supplied by law enforcement.

Clone pagers allow law enforcement officials to receive whatever messages the target of the electronic surveillance warrant is receiving on his or her pager, thereby satisfying the intent of CALEA to provide law enforcement officials with call content and call identifying information.

Two additional standards remain to be developed and published - - (1) the "advanced messaging" standard, which will define compliance for subscriber defined on-demand roaming, forwarding and redirection, two-way and acknowledgment paging, and real-time wireless packet data services, and (2) the "ancillary services" standard which will define compliance for caller/subscriber bridging, outdial and other real-time bridged audio services. The Subcommittee is currently working on both standards.

II. ARCH'S NEED FOR AN EXTENSION OF TIME

A. Advanced Messaging and Ancillary Services

The CALEA Subcommittee is forging ahead with development of CALEA-compliant standards for advanced messaging and ancillary services, notwithstanding the FBI's failure to inform the paging industry of law enforcement's capacity requirements. Without this input from law enforcement, and in the absence of technical certainty, however, manufacturers have not produced CALEA-compliant equipment. Consequently, compliance with CALEA's assistance capability requirements with respect

¹¹ A pager's "capcode" is the radio signaling scheme address for the pager.

to advanced messaging and ancillary services is not reasonably achievable through the application of technology now available to Arch. Therefore, Arch requests an extension of two years from the date final CALEA-compliant technical standards are promulgated for advanced and ancillary paging services to bring these service offerings into compliance with Section 103.

B. Traditional One-Way Paging Service

As noted above, the paging industry has adopted the clone pager standard as its CALEA-compliant standard for traditional, one-way paging. Arch is optimistic that clone pagers will continue to be compliant insofar as traditional, one-way paging services are concerned. The matter will remain in doubt, however, until the FBI clarifies its position.¹² Accordingly, Arch also requests a two year extension applicable to its traditional, one-way paging services in the event the clone-pager standard is challenged and a formal standard is not in place before the compliance deadline.¹³

C. Reasonableness of Two Year Extension

Once final technical standards are issued, manufacturers will need time to develop the hardware and software necessary to meet CALEA's assistance capability

¹² The FBI initially indicated support for clone pagers but recently stated that "clone pager-based interceptions have only limited effectiveness and utility, and fail to fully meet CALEA's Section 103 requirements." FBI Reply Comments, CC Docket No. 97-213, at 22 ¶ 35 (Feb. 11, 1998). It is unclear whether the FBI's recently announced concerns relate to all paging services, including traditional, one-way paging, or simply advanced messaging and ancillary services.

¹³ Should the clone pager standard remain in effect, no extension will be necessary with respect to Arch's traditional, one-way paging services, which comprise 95 percent of Arch's service offerings, because Arch is already providing law enforcement officials with clone pagers pursuant to valid court orders.

requirements, and Arch will need to make the attendant modifications to its equipment and systems. This request for a two year extension of time is consistent with what manufacturers and carriers in the industry have been requesting throughout this proceeding.¹⁴ The Department of Justice and the FBI acknowledge that they have focused their attention on other segments of the telecommunications industry and have not provided the messaging industry with any guidance vis-a-vis capacity.¹⁵ The Department of Justice and FBI also acknowledge the reasonableness of extending the compliance deadline by approximately two years.¹⁶

IV. GRANT OF THIS REQUEST IS WARRANTED

The Communications Act specifies that "a telecommunications carrier . . . may petition the Commission for one or more extensions of the deadline for complying with

¹⁴ See, e.g., Comments of the Cellular Telecommunications Industry Association; AirTouch Communications, Inc.; ALLTEL Communications, Inc.; Ameritech Operating Companies; AT&T Corporation; Association for Local Telecommunications Services; Bell Atlantic Mobile, Inc.; Telecommunications Industry Association; Paging Network, Inc.; Northern Telecom, Inc.

¹⁵ See FBI, *Implementation of Section 104 of the Communications Assistance for Law Enforcement Act*, 63 Fed. Reg. 12218, 12220 (March 12, 1998) ("this Final Notice of Capacity should be viewed as the first phase applicable to telecommunications carriers offering services that are of the most immediate concern to law enforcement - - that is, those telecommunications carriers offering local exchange services and certain commercial mobile radio services, specifically cellular service and personal communications services . . . Law enforcement will consult with [those carriers excluded from the Notice] before applicable capacity requirements are established and subsequent notices are issued.")

¹⁶ See Department of Justice and FBI Reply Comments Regarding the Commission's Authority to Extend the October 25, 1998 Compliance Date, CC Docket No. 97-213, filed May 15, 1998, at 12.

the assistance capability requirements.”¹⁷ The Act provides further that an extension should be granted “if the Commission determines that compliance with the assistance capability requirements . . . is not reasonably achievable through the application of technology available within the compliance period.”¹⁸

Grant of the instant request is clearly warranted. Although PCIA is currently developing a CALEA-compliant standard applicable to advanced messaging and ancillary services, the FBI’s failure to issue a capacity notice is complicating the process and precluding the manufacture and production of CALEA-compliant equipment. Therefore, compliance with CALEA’s assistance capability requirements with respect to advanced messaging and ancillary services is not reasonably achievable by October 25, 1998 through application of technology now available to Arch. For the same reasons, an extension of time to comply with CALEA requirements as they relate to traditional one-way paging services would also be warranted if the clone pager standard adopted and published by PCIA is challenged by the FBI.

¹⁷ 47 U.S.C. § 1006(c)(1).

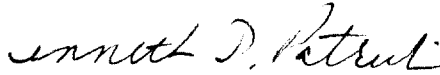
¹⁸ *Id.* at § 1006(c)(2).

V. CONCLUSION

For the foregoing reasons, Arch respectfully requests that the Commission grant the instant request for extension of time to comply with CALEA's Section 103 Assistance capability requirements.

Respectfully submitted,

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